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Letter dated 3 September 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 May 2003 (S/2003/590).

The Counter-Terrorism Committee has received the attached third report from Turkey submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 25 August 2003 from the Permanent Mission of Turkey to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of Turkey to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to the Security Council resolution 1373 (2001) concerning counter-terrorism, and with reference to the letter of 9 May 2003 from the Chairman of the Committee, has the honour to submit herewith the supplementary report of Turkey, which provides information on issues raised by the Counter-Terrorism Committee (see enclosure).*

* Annexes to the enclosure are on file with the Secretariat and are available for consultation.

Enclosure

SUPPLEMENTARY INFORMATION BY THE REPUBLIC OF TURKEY ON MEASURES TAKEN AGAINST TERRORISM (IN RESPONSE TO THE REQUEST BY THE COUNTER-TERRORISM COMMITTEE (CTC) ON 9 MAY 2003)

❖ **Turkish Law on Fight Against Terrorism**

An unofficial translation of the Turkish Law on Fight Against Terrorism (LFAT Nr: 3713) is attached herewith.

❖ **Implementation of subparagraph 1(c) of UNSCR 1373 by Turkey**

As it has been indicated in our previous report to the Security Council in response to UNSCR 1455 (2003) in April 2003, according to the Turkish legislation in force, there needs to be strong and sufficient evidence or indication to start an investigation against persons and institutions that are suspected to be violating financial laws.

There are several legal instruments that can be invoked for asset freezing depending on the nature of specific cases. These can be briefly listed as follows:

- Law Nr: 213 on Tax Regulations (In cases of tax evasions.)
- Law Nr: 1918 on Prevention and Investigation of Smuggling (In cases of illegal exportation and importation of goods.)
- Law Nr: 4208 on Prevention of Money Laundering (In cases related to money laundering. "Money laundering" is defined as a criminal offence according to the provisions of this law. If dirty money is derived from offences of terrorism, or if the offence is committed with the aim of ensuring source for crimes of terrorism, the penalty of money laundering shall be aggravated.)
- Law Nr: 4422 on the Prevention of Benefit Oriented Criminal Organizations (In cases when a criminal organization acquires assets through violence, these assets may be confiscated.)
- Law Nr: 3713 on Fight Against Terrorism (LFAT) (According to the provisions of this law, the activities of associations, foundations and unions which are found to have lent support to terrorist movements shall be prohibited. Such organizations shall be dissolved by the decision of the relevant court. All assets of such organizations shall be confiscated.)

Among these instruments, asset freezing is regulated primarily by Article 6 of the Law Nr: 4422 on the Prevention of Benefit Oriented Criminal Organizations. According to provisions of this article whose full translation has already been included in our report on 6 August 2002, only relevant courts, depending on strong and incriminating evidence can decide to freeze the assets of suspect persons and organizations. In the absence of such evidence, asset freezing demands of the Financial Crimes Investigation Board (MASAK) and the Public Prosecutors, which are legally designated authorities to file such lawsuits, will be rejected.

Thus it is incumbent upon the Public Prosecutors and the Financial Crimes Investigation Board (MASAK) to support their indictment with sufficient evidence for opening a strong case before relevant

courts for asset freezing. Since each case will differ from the other, it is hard to predict the timeframe required for concluding an investigation that could lead to asset freezing.

As it has been outlined in our previous report to the Security Council in response to UNSCR 1455 (2003), the list issued by the Sanctions Committee (UNSCR 1267) lacks detailed information or evidence that would be required by the Turkish courts for freezing the assets of persons, institutions and companies that are included in it. For overcoming this difficulty, the Government of Turkey has decided since December 2001 to promulgate decrees that include the names which are issued by the Sanctions Committee (UNSCR 1276) for asset freezing. These decrees are updated as necessary according to the changes in the Sanctions Committee list. However, it would be of vital help for the Turkish investigating bodies if the designating authorities would provide detailed information as to how these persons, institutions and firms, many of which do not have any records in Turkey, have gotten involved in terrorism, as well as information about their methods of supplying financial support to terrorism.

❖ **Action initiated by MASAK (Financial Crimes Investigation Board) as result of receiving reports of suspicious transactions**

After the terrorist attacks that took place on September 11, 2001 in the USA, MASAK has given due importance to the matter of terrorist financing. One of the measures taken by MASAK for preventing terrorist financing has been to issue Communiqué Nr:3.

In the said Communiqué, a new suspicious transaction type has been added to the already existing 19 types. According to the new type, if liable parties such as banks and private financial institutions have reasonable ground to suspect that certain funds could be linked or related to terrorism or terrorist acts or used for the purpose of realizing such activities, they are obliged to report the concerned transaction to MASAK.

In such an eventuality the liable party will fill a uniform "Suspicious Transaction Reporting Form" (STRF) regardless of the amount of the money transaction that is found suspicious. The nature of the suspicious transaction detected shall be shown by fixing an (x) mark on the STRF that is appropriate among the 20 suspicious transactions. If the transaction does not correspond the 20 types listed in the STRF "Other Situations" numbered as 21 shall be marked with a additional information. After the STRF is completed, it shall be signed by two authorized representatives of the liable party and sent to MASAK within ten days.

The Suspicious Transaction Reporting Forms (STRF), related to money laundering and terrorist financing will be evaluated with priority by MASAK. If the information included in the STRF is found appropriate by MASAK for further investigation and eventually for prosecution, the case will be forwarded to the Public Prosecutor. If the liable party acquires new information or clue concerning the suspicious transaction reported, an additional STRF will be filled and sent to MASAK as an annex of initial report.

If the liable party fails to report the suspicious transactions within the procedures set forth in the MASAK Communiqué, the responsible persons will be prosecuted, which may result in imprisonment ranging from six to twelve months and heavy fining ranging from twelve million to one hundred and twenty million Turkish Liras according to law.

❖ **Turkish legislation that regulate the collection of charitable donations and fund raising by organizations and individuals**

Turkish Law Nr. 2860 on the "Collection of Charitable Donations" regulates all kinds of fund raising by organizations, associations and individuals. According to the provisions of Article 3 of this law, individuals, associations, organizations, foundations and written media are free to collect charitable donations provided that they serve public benefit or aim to help people in need or support public services. However, according to the provisions of Article 7 of the said law, collection of charitable donations or fund raising by individuals and associations and others are subject to the permission of the Ministry of Interior, Province Governorships or District Governerships depending on the locations where they are executed. These above mentioned authorities are required to give their responses to the applying party for permission by no later than two months based on a thorough research as to the aims, conduct and destination of the charitable donations wanted to be collected.

According to the provisions of Article 16, subparagraph 1 and 2 of the same law, the authorizing Office for charitable donation collection is required to scrutinize whether the funds collected will be used in accordance with the declared aim or not. In the case of a discrepancy with the practice and the declared aim, the police will intervene and all kinds of fund raising activities of the concerned party will immediately be stopped. Those responsible for violating the law will be prosecuted.

It will be easily deduced from the above information that necessary means and mechanisms are in place in the Turkish legislation for preventing any individual or organization to raise and channel funds for terrorist aims.

❖ **Turkish regulations pertaining to the manufacture, sale, possession, storage, transport, import and export of explosives**

Turkey is party to the Non-Proliferation Treaty, the Comprehensive Nuclear Test Ban Treaty, the Chemical Weapons Convention and the Biological Weapons Convention. Turkey is also member of the Wassenaar Arrangement, the Missile Technology Control Regime, the Zangger Committee, the Nuclear Suppliers Group and the Australian Group.

Under Turkish Law Nr.3763 on the "Control of Private Industrial Enterprises Producing War Weapons, Vehicles, Equipment and Ammunition" the production, sale, possession, storage, transport, import and export of arms and explosives and related material of all types are under the strict control of the Ministry of National Defence (MND).

A list of material whose production, sale, transfer etc. is subject to the control of the MND under Law Nr. 3763 is issued every year in the Official Gazette which includes inter alia, all kinds of explosives and devices that can be utilized to fire them.

As a result of the meticulous control system in place provided by its legislation, Turkey strictly abides by all UN resolutions as well as international agreements that regulate the production, sale, storage, possession, transfer, import and export of dangerous material including explosives.

❖ **Relevant legal provisions aimed at preventing the financing, planning, facilitation or commission of terrorist acts directed from Turkey at other States**

As a country which has suffered severely for many years from terrorism, Turkey is determined to eliminate this evil. Due to its determination to fight terrorism, Turkey has a robust anti-terrorism law (Law Nr: 3713 on Fight Against Terrorism – LFAT) which dates back much before the vicious 11 September attacks. Turkey is party to all UN Conventions for fighting terrorism. In addition to these, it has signed more than 40 multilateral and bilateral international agreements with various countries for combating terrorism. Thus Turkey is determined and well placed not to let any terrorist activity on its soil regardless whether they are directed to Turkey itself or a third country.

According to Article 90 of the Turkish Constitution, international agreements and conventions which are signed and endorsed by Turkey in accordance with the legal procedures, acquire the force of domestic law. However, the activation of relevant legislation against terrorist crimes necessitate their actual perpetration which can only be determined by solid evidence.

There is also an ongoing effort by the Ministry of Justice in collaboration with relevant Ministries and other government authorities to amend Law Nr: 3713 (LFAT) so as to harmonize it fully with UNSCR 1373 and to establish a specific "terrorist financing" crime in line with the UN Convention on the Suppression of Financing of Terrorism.

❖ **Offences under Turkish legislation which are also provided for under the relevant universal conventions**

As it has been mentioned above, according to Article 90 of the Turkish Constitution, international agreements which are signed and endorsed by Turkey in accordance with the corresponding legal procedures acquire the force of domestic law. Among others, Turkey is party to all 12 UN Conventions on fighting terrorism as well as to the European Convention on Suppression of Terrorism.

The offences and felonies which are provided for under the above mentioned global and international legal instruments are primarily covered by the below listed Turkish legislation.

- Turkish Penal Code, Nr: 765
- The Law on Fight Against Terrorism, Nr: 3713
- The Law on Prevention of Money Laundering, Nr: 4208
- The Law on Fight Against Benefit-Oriented Criminal Organizations, Nr: 4422
- The Law on Establishment and Trial Procedures of State Security Courts, Nr: 2845
- State of Emergency Law, Nr: 2935
- The Law on Control of Narcotic Materials, Nr: 2313
- Amending Law on the Decree in force of Law on the Organization and Competences of the Ministry of Finance, Nr:178
- The Law on Firearms and Knives and Other Similar Tools, Nr: 6136
- The Law on Prevention and Prosecution of Smuggling, Nr: 1918
- The Law on Control of Private Industrial Enterprises Producing War Weapons, Vehicles, Equipment and Ammunition, Nr: 3763
- The Law on the Collection of Charitable Donations, Nr: 2860